



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### HB4615

Introduced 1/21/2022, by Rep. Jonathan Carroll

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.970 new

30 ILCS 500/45-23 new

410 ILCS 620/16.10 new

415 ILCS 5/21.8 new

Creates the Carryout Bag Fee Act. Provides that a carryout bag fee of \$0.10 is imposed on each carryout bag used by a customer at retail establishments with specified amounts allocated to specified entities and State funds. Repeals the new Act on January 1, 2026. Contains other provisions. Amends the State Finance Act making conforming changes. Amends the Counties Code and Illinois Municipal Code. Provides that a county or municipality may not ban, place a fee or tax on, or regulate in any other manner the use, disposition, content, taxation, or sale of carryout bags. Amends the Illinois Procurement Code. Prohibits the procurement and use of single-use plastic disposable foodware at State parks, natural areas, colleges and universities, and the Illinois State Fair. Amends the Environmental Protection Act. Provides that on and after January 1, 2023, no restaurant or retail establishment may distribute a plastic carryout bag. Amends the Illinois Food, Drug and Cosmetic Act. Provides that a full service restaurant or quick service restaurant shall not provide single-use plastic disposable foodware items to a consumer ordering or purchasing dine-in food unless requested by the consumer. Contains other requirements and provides civil penalties for any violations.

LRB102 24446 CPF 33680 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Carryout Bag Fee Act.

6 Section 5. Definition. As used in this Act, "carryout bag"  
7 has the meaning given to that term in subsection (a) of Section  
8 5-1184 of the Counties Code.

9 Section 10. Carryout Bag Fee Fund.

10 (a) The Carryout Bag Fee Fund is created as a new fund in  
11 the State treasury. Moneys in the Fund shall be used as  
12 provided in this Act.

13 (b) Notwithstanding any other provision of law, the  
14 Carryout Bag Fee Fund is not subject to sweeps, administrative  
15 charges or chargebacks, or any other fiscal or budgetary  
16 maneuver that would in any way transfer any funds from the  
17 Carryout Bag Fee Fund into any other fund of the State.

18 Section 15. Payment of carryout bag fee required. A  
19 carryout bag fee of \$0.10 is imposed on each carryout bag used  
20 by a customer at retail establishments located within Illinois  
21 that shall be paid by the customer. The ultimate incidence and

1 liability for payment of the fee is to be borne by the  
2 customer. The fee shall be separately stated on the receipt  
3 provided to the customer at the time of sale and shall be  
4 identified as the Carryout Bag Fee. It is a violation of this  
5 Section for the store to fail to separately itemize the fee on  
6 a customer's purchase of such a bag, or to otherwise absorb the  
7 fee on such sale. The retail establishment shall retain \$0.03  
8 of the fee. The retail establishment shall remit the remaining  
9 \$0.07 of the fee to the Department of Revenue on form ST-1. The  
10 Department shall deposit \$0.04 into the Carryout Bag Fee Fund,  
11 \$0.01 to the Prairie Research Institute of the University of  
12 Illinois, \$0.01 into the Solid Waste Management Fund, and  
13 \$0.01 into Partners for Conservation Fund. The Department of  
14 Revenue shall monthly remit the \$0.03 of the fee from the  
15 Carryout Bag Fee Fund to the county where the retail  
16 establishment is located, except that if a municipal joint  
17 action agency is located within the county where the retail  
18 establishment is located, the Department of Revenue shall  
19 monthly remit to the municipal joint action agency a portion  
20 of the fee to the municipal joint action agency based on the  
21 location of retail establishments within the municipal joint  
22 action agency.

23 Section 20. Use of the carryout bag fee by counties and  
24 municipal joint action agencies. The county or municipal joint  
25 action agency shall use the revenue received from the carryout

1 bag fee to fund:

2 (1) household hazardous waste collection one-day  
3 events;

4 (2) collection centers, as defined in Section 3 of the  
5 Household Hazardous Waste Collection Program Act;

6 (3) education programs to reduce contamination and  
7 increase participation in recycling and composting  
8 programs;

9 (4) programs to increase the collection and recycling  
10 or composting of auxiliary containers;

11 (5) grants to encourage market development or  
12 infrastructure development for reuse, recycling, and  
13 composting; and

14 (6) the implementation of solid waste management plans  
15 developed pursuant to the Solid Waste Planning and  
16 Recycling Act.

17 At least 25% of the revenue received from the carryout bag  
18 fee shall be used as specified in items (1) and (2).

19 Section 25. Exemption. The carryout bag fee does not apply  
20 to the retail sale or use of carryout bags that are used to  
21 carry items purchased pursuant to the Supplemental Nutrition  
22 Assistance Program or a similar governmental food assistance  
23 program.

24 Section 30. Incorporation by reference. All of the

1 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6,  
2 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'  
3 Occupation Tax Act that are not inconsistent with this Act,  
4 and all provisions of the Uniform Penalty and Interest Act  
5 shall apply, as far as practicable, to the subject matter of  
6 this Act to the same extent as if such provisions were included  
7 in this Act.

8 Section 900. The State Finance Act is amended by adding  
9 Sections 5.970 as follows:

10 (30 ILCS 105/5.970 new)

11 Sec. 5.970. The Carryout Bag Fee Fund.

12 Section 905. The Illinois Procurement Code is amended by  
13 adding Section 45-23 as follows:

14 (30 ILCS 500/45-23 new)

15 Sec. 45-23. Single-use plastics prohibition; preference.

16 (a) For the purposes of this Section:

17 "Compostable" means that the item meets the ASTM D6400  
18 standard of compostability and has been certified by the  
19 Biodegradable Products Institute as compostable.

20 "Compostable foodware" means containers, bowls, straws,  
21 plates, trays, cartons, cups, lids, forks, spoons, knives, and  
22 other items that are designed for one-time use for beverages,

1 prepared food, or leftovers from meals that are compostable.

2 "Plastic" means a synthetic material made from linking  
3 monomers through a chemical reaction to create an organic  
4 polymer chain that can be molded or extruded at high heat into  
5 various solid forms retaining their defined shapes during  
6 their life cycle and after disposal.

7 "Recyclable foodware" means items that are designed for  
8 one-time use for beverages, prepared food, or leftovers from  
9 meals that are commonly accepted in local curbside residential  
10 recycling pick up.

11 "Single-use plastic disposable foodware" means containers,  
12 bowls, straws, plates, trays, cartons, cups, lids, forks,  
13 spoons, knives, and other items that are designed for one-time  
14 use for beverages, prepared food, or leftovers from meals that  
15 are made of plastic, are not compostable, and are not accepted  
16 in residential curbside recycling pick up.

17 (b) When a State contract is to be awarded to the lowest  
18 responsible bidder, an otherwise qualified bidder who will  
19 fulfill the contract through the use of compostable foodware  
20 or recyclable foodware may be given preference over other  
21 bidders unable to do so; provided that the bid is not more than  
22 5% greater than the cost of products that are single-use  
23 plastic disposable foodware.

24 (c) After January 1, 2023, State agencies and departments  
25 may not procure single-use plastic disposable foodware for use  
26 at any State parks, natural areas, colleges or universities,

1 or for use at the Illinois State Fair, and instead shall offer  
2 only compostable foodware or recyclable foodware.

3 (d) After January 1, 2024, or at the renewal of its next  
4 contract, no vendor contracted through a State agency or  
5 department may provide customers with single-use plastic  
6 disposable foodware at any site located at a State park, a  
7 natural area, a college or university, or at the Illinois  
8 State Fair, and instead shall offer only compostable foodware  
9 or recyclable foodware.

10 Section 910. The Illinois Food, Drug and Cosmetic Act is  
11 amended by adding Section 16.10 as follows:

12 (410 ILCS 620/16.10 new)

13 Sec. 16.10. Single-use plastic disposable foodware.

14 (a) In this Section:

15 "Compostable material" means products or materials that  
16 will completely break down into organic matter within 180 days  
17 and the microorganisms present in compost will consume the  
18 material at the same rate they would natural materials.

19 "Department" means the Department of Public Health.

20 "Dine-in" means food and beverages that are intended to be  
21 consumed on the premises of a full service restaurant or quick  
22 service restaurant.

23 "Disposable cup" means a beverage cup designed for a  
24 single use to serve beverages, including, but not limited to,

1 water, cold drinks, hot drinks, and alcoholic beverages.

2 "Disposable foodware" means containers, bowls, plates,  
3 trays, cartons, cups, lids, forks, spoons, knives, napkins,  
4 and other items that are designed for one-time use for  
5 beverages, prepared food, or leftovers from meals prepared by  
6 a food dispensing establishment. "Disposable foodware" does  
7 not include items composed entirely of aluminum.

8 "Expanded polystyrene" means blown polystyrene and  
9 expanded and extruded foams that are thermoplastic  
10 petrochemical materials utilizing a styrene monomer and  
11 processed by multiple techniques, including, but not limited  
12 to, fusion of polymer spheres, expanded bead polystyrene,  
13 injection molding, foam molding, extrusion-blow molding, and  
14 extruded foam polystyrene.

15 "Expanded polystyrene food service products" means food  
16 containers, plates, hot and cold beverage cups, meat and  
17 vegetable trays, egg cartons, and other products made of  
18 expanded polystyrene and used for selling or providing food.

19 "Full service restaurant" means a food dispensing  
20 establishment with the primary business purpose of serving  
21 food, where food may be consumed on the premises and where all  
22 of the following actions are taken by an employee of the  
23 establishment:

24 (1) A consumer is escorted or assigned to an assigned  
25 eating area. The employee may choose the assigned eating  
26 area or may seat the consumer according to the consumer's

1 need for accommodation or other request.

2 (2) A consumer's food and beverage orders are taken  
3 after the consumer has been seated at the assigned seating  
4 area.

5 (3) Food and beverage orders are delivered directly to  
6 the consumer.

7 (4) Any requested items associated with a consumer's  
8 food or beverage order are brought to the consumer.

9 (5) The check is delivered directly to the consumer at  
10 the assigned eating area.

11 "Prepared food" means foods or beverages that are prepared  
12 and served by a food dispensing establishment on the licensed  
13 premises by cooking, chopping, slicing, mixing, freezing,  
14 squeezing, or other processing and which require no further  
15 preparation for human consumption. "Prepared food" does not  
16 include raw, uncooked whole fruits or vegetables that are not  
17 chopped, squeezed, or mixed, or raw uncooked meat products.

18 "Quick service restaurant" means a food dispensing  
19 establishment that has minimal table service and makes food  
20 available upon order and pickup from a vehicle.

21 "Reusable foodware" means foodware, including, but not  
22 limited to, plates, bowls, cups, trays, glasses, stirrers,  
23 condiment cups, and utensils, that is:

24 (1) manufactured from durable materials;

25 (2) specifically designed and manufactured to be  
26 washed, sanitized, and used repeatedly over an extended

1 period of time; and

2 (3) safe for washing and sanitizing according to  
3 applicable regulations.

4 "Single-use plastic disposable foodware" means any  
5 disposable foodware item, including, but not limited to:  
6 stirrers, napkins, and utensils; condiment cups and packets;  
7 cup sleeves, tops, lids, and spill plugs; and other similar  
8 accessory or accompanying disposable foodware items used as  
9 part of food or beverage service or packaging.

10 "Takeout food" means prepared food that is purchased to be  
11 consumed off the licensed premises of a food dispensing  
12 establishment. "Takeout food" includes, but is not limited to,  
13 prepared food carried out by a customer or delivered by a food  
14 dispensing establishment or a takeout food delivery service.

15 "Takeout food delivery service" means a third-party  
16 delivery service that picks up takeout food from a food  
17 dispensing establishment and delivers it to a customer for  
18 consumption off of the licensed premises.

19 (b) A full service restaurant or quick service restaurant  
20 shall not provide single-use plastic disposable foodware items  
21 to a consumer ordering or purchasing dine-in food unless  
22 requested by the consumer. Plastic drinking straws must be  
23 provided when specifically requested.

24 (c) Single-use plastic disposable foodware items provided  
25 when requested by customers may not be packaged in plastic.

26 (d) A food dispensing establishment or takeout food

1 delivery service must provide options for a customer to  
2 affirmatively request accessory disposable foodware items  
3 separate from the customer's order for a food or beverage  
4 across all ordering or point of sale platforms, including, but  
5 not limited to, the Internet, a smartphone application, other  
6 digital platforms, by telephone, and in person.

7 (e) A full service restaurant or quick service restaurant  
8 offering condiments may use dispensers rather than prepackaged  
9 disposable condiment packets.

10 (f) A full service restaurant or quick service restaurant  
11 must post a sign indicating that single-use plastic disposable  
12 foodware will be made available to the customer upon request  
13 or at a self serve station.

14 (g) Nothing in this Section prohibits a full service  
15 restaurant or quick service restaurant from making single-use  
16 plastic straws available to customers ordering or purchasing  
17 dine-in food by making available cylinders, dispensers,  
18 containers, or any other means of allowing for single-use  
19 plastic straws to be obtained at the affirmative volition of  
20 the customer if a sign is posted encouraging the customer to  
21 reduce the use of single-use plastics.

22 (h) The first violation of this Section shall result in a  
23 notice of violation, and any subsequent violation shall be  
24 punishable by a civil penalty of \$25 for each day a full  
25 service restaurant or quick service restaurant is in violation  
26 of this Section. All civil penalties collected under this

1 Section shall be paid to the Department.

2 Section 915. The Environmental Protection Act is amended  
3 by adding Section 21.8 as follows:

4 (415 ILCS 5/21.8 new)

5 Sec. 21.8. Plastic bag ban.

6 (a) In this Section:

7 "Plastic carryout bag" means any plastic bag provided by a  
8 restaurant or retail establishment to a customer for the  
9 purpose of carrying goods out of the restaurant or retail  
10 establishment. "Plastic carryout bag" does not include the  
11 following:

12 (1) Bags that are ordinarily intended and designed for  
13 use by customers inside a restaurant or retail  
14 establishment to:

15 (A) package loose bulk items, such as fruit,  
16 vegetables, nuts, grains, candy, cookies, or small  
17 hardware items;

18 (B) contain or wrap frozen foods, meat, or fish,  
19 whether prepackaged or not;

20 (C) contain or wrap flowers, potted plants, or  
21 other damp items;

22 (D) segregate food or merchandise that could  
23 damage or contaminate other food or merchandise when  
24 placed together in a bag; or

1                   (E) contain unwrapped prepared foods or bakery  
2                   goods.

3                   (2) Newspaper bags.

4                   (3) Dry cleaning or garment bags.

5                   (4) Bags provided by a pharmacist to contain  
6                   prescription drugs.

7                   (5) Bags sold in packages containing multiple bags  
8                   intended for use as garbage bags, pet waste bags, or yard  
9                   waste bags.

10                  (6) Bags provided by a dine-in or takeout restaurant  
11                  to contain food or drink purchased by the restaurant's  
12                  customers.

13                  (7) Bags of any type that customers bring to a  
14                  restaurant or retail establishment for their own use or to  
15                  carry away from the restaurant or retail establishment  
16                  goods that are not placed in a bag provided by the  
17                  restaurant or retail establishment.

18                  (8) Plastic liners that are permanently affixed, or  
19                  designed and intended to be permanently affixed, to the  
20                  inside of a particular bag.

21                  (9) Bags with a retail price of at least 50 cents each.

22                  "Restaurant" means any business having sales of  
23                  ready-to-eat food for immediate consumption comprising at  
24                  least 51% of total sales, excluding the sale of liquor.

25                  "Retail establishment" means any person, corporation,  
26                  partnership, business venture, public sports or entertainment

1 facility, government agency, or organization that sells or  
2 provides merchandise, goods, or materials, including, but not  
3 limited to, clothing, food, beverages, household goods, or  
4 personal items of any kind, directly to a customer. "Retail  
5 establishment" includes, but is not limited to, department  
6 stores, clothing stores, jewelry stores, grocery stores,  
7 pharmacies, home improvement stores, liquor stores,  
8 convenience stores, gas stations, and farmers' markets.  
9 "Retail establishment" does not include food banks and other  
10 food assistance programs, mobile food delivery services, or  
11 restaurants.

12 (b) On and after January 1, 2023, no restaurant or retail  
13 establishment may distribute a plastic carryout bag.